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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Report of the Secretary-General

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Introduction

1. The General Assembly, at its forty-eighth session, adopted resolution 48/138 by which it urged States and the international community to promote and protect the rights of persons belonging to minorities, as set out in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through the facilitation of their full participation in all aspects of the political, economic, social, religious and cultural life of society and in the economic progress and development in their country; and appealed to States to take all the necessary legislative and other measures to promote and give effect, as appropriate, to the principles of the Declaration.

2. In addition, the Assembly called upon the Commission on Human Rights to examine ways and means to promote and protect effectively the rights of persons belonging to minorities, as set out in the Declaration. Finally, the Assembly requested the Secretary-General to report to the General Assembly on the implementation of the resolution.

3. The Commission on Human Rights, at its fiftieth session, adopted resolution 1994/22 by which it urged States to take, as appropriate, all the necessary constitutional, legislative, administrative and other measures to promote and give effect to the Declaration. Further, the Commission requested the Secretary-General to seek views and information from Governments, the specialized agencies, relevant United Nations organs and bodies, regional intergovernmental organizations and bodies and non-governmental organizations and experts in all regions on issues relating to the promotion and implementation of the Declaration.

4. The Commission requested the Secretary-General to report on the implementation of the resolution at its fifty-first session under the item entitled "Rights of persons belonging to national or ethnic, religious and linguistic minorities."

5. Pursuant to those resolutions, the Secretary-General, by a communication dated 13 June 1994, invited States, interested intergovernmental and non-governmental organizations, specialized agencies, special rapporteurs and relevant working groups of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to submit their contributions to the Centre for Human Rights by 1 August 1994.

6. The States, organizations and bodies which sent replies usually made reference to both resolutions mentioned above. Therefore, the replies received by 1 November 1994 were included in the analytical report of the Secretary-General submitted to the forty-ninth session of the General Assembly (A/49/415 and Add. 1-2). This report is also available for members and observers at the fifty-first session of the Commission.

7. After the aforesaid report had been issued, the Secretary-General received a reply from the Government of Chad. The Minority Rights Group, a non-governmental organization in consultative status with the Economic and Social Council, sent a reply in addition to the one embodied in document A/49/415/Add.1.

8. These replies are summarized below.

I. COMMENTS PROVIDED BY GOVERNMENTS

Chad

[22 November 1994]
[Original: FRENCH]

9. The Government of Chad has indicated that no problem has arisen in Chad with regard to persons belonging to national or ethnic, religious and linguistic minorities. All the country's fundamental laws have always affirmed the equality of all citizens and the secular nature of the Chadian State. The draft constitution which is currently under discussion also contains the same provisions.

II. COMMENTS PROVIDED BY NON-GOVERNMENTAL ORGANIZATIONS

Minority Rights Group

[16 November 1994]
[Original: ENGLISH]

10. The Minority Rights Group (MRG) supplemented the information contained in document A/49/415/Add.1 by additional information relating to the MRG's involvement in the promotion of the Declaration.

11. MRG organized a workshop with the objective of advancing the promotion of the rights of persons belonging to minorities, including the effective promotion of the Declaration. The workshop was held on 16 February 1994 in Geneva, and was attended by 31 participants from delegations to the fiftieth session of the Commission on Human Rights, United Nations bodies and agencies, experts on minorities and MRG staff.

12. The issues raised in debate were summarized as follows:

> "The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other international standards needed greater clarification and often there were unresolved tensions between universality and diversity of regional approaches. There are tensions between individual rights and group rights and tensions between women's rights and legislative systems sympathetic to specific religious customs. There would remain questions of who would determine what was in the best interest of the child and how far these should take into account cultural norms.
>
> The Declaration reflected the dominant ideas among States at the time. The Declaration may not be very daring but as this is a very delicate subject for some States there are many political issues encompassing the subject. Any methods of implementation should be seen as a process, moving at a different pace in different circumstances (including different economic situations), as the key issues were the workability of minority rights helping to reduce, not increase, conflicts and tensions. Various forms of guarantees may be required to ensure that this was a confidence-building measure.

The recommendations produced by Asbjørn Eide were praised as being highly constructive and valuable; they provided practical ways forward, but they might need to be given much closer scrutiny by Governments before they could be adopted in their entirety. This might then lead to an internalization of this standard and these recommendations within States.

The essence of the standards, and the recommendations were clearly perceived as the prevention of social conflicts by the promotion of good practice. Any question of punishment for abuses was not part of this debate.

Implementation proposals needed to be realistic on how to take them forward in the United Nations system. There was a wide range of views of Governments, some of which were not present at the meeting and who may be less sympathetic to these issues.

Mechanisms and coordination level

Although coordination was often praised and advocated, care needed to be taken that it was really necessary. The words could have different meanings to different people and it was asked whether the notion of single, concentrated attention was necessarily what was needed.

There was wide agreement that much more attention was needed within the United Nations system and a range of suggestions were made:

- A working group of the Commission and/or Subcommission;

- A more generous allocation of time to discuss minority issues at the Subcommission;

- A specific agenda item and debate on minority issues at the Commission;

- A coordinating and reporting role on progress by the High Commissioner on Human Rights;

- A special rapporteur supporting the High Commissioner on minority issues;

- Continued reporting to the General Assembly on the implementation of the Declaration by United Nations organs, specialized agencies and bodies.

Implementation issues

It was important to look at the component elements of what needed to be done to encourage and support implementation, before any specific mechanism was proposed. Indeed, in different circumstances different and sometimes supplementary approaches would be needed, complementing though not duplicating each other.

Certain key issues were identified:

- Creating a way of encouraging a dialogue between minorities and Governments (locally and internationally);

- Enabling Governments to review and explore the recommendations of Asbjørn Eide and the Declaration together, including the implementation by United Nations agencies and bodies;

- Facilitating the effective promotion of the Declaration and Asbjørn Eide's recommendations;

- Ensuring that Governments (and where possible minorities) explore models of good practice including the "internalization" of international standards on minorities;

- Entering into a dialogue with treaty bodies on the Declaration and Asbjørn Eide's recommendations;

- Seeking to incorporate the issue of minority rights appropriately into all existing United Nations mechanisms.

There were roles that could be played by Governments, the United Nations bodies and agencies and non-governmental organizations. Whatever was decided, it should be planned to encourage constructive debate, followed by action. The quality rather than the quantity of mechanisms was important, ensuring that they were given sufficient priority and resources."

13. MRG and the Ibn Khaldoun Centre organized a seminar on the implications of the Declaration in the Arab world. The principal objective of this meeting was to increase awareness in the Middle East region about the rights of minorities and to focus on its implementation as an international standard promoting such rights.

14. MRG has also published a thematic report entitled "Education Rights and Minorities". The parts of the report which seem to be most relevant to the issue of the effective promotion of the Declaration are reproduced below:

"The general human right to education implies certain duties of the State and, like all other rights in the Universal Declaration of Human Rights (1948), this particular right must be accorded 'without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' (see Chapter 2). As Patrick Thornberry indicates in his examination of international standards, this approach to the value of education reflects an intercultural rather than a cultural perspective and may lead to assumptions that cultures can look after themselves, secure in their own value systems. For threatened groups, norms promoting mutuality of respect need the additional strength of norms to ground the validity of particular cultures through educational and other means.

Chapters 4, 5 and 6 therefore reflect an ambivalence: the value of intercultural education, which concerns the education of the majority as much as the minority, and the value of education which protects and promotes the cultural identity of the minority. The latter may require separate education systems, and the International Labour Organisation (ILO) Convention No. 169 (1989), article 27.3, pledges governments to 'recognize the rights of ... [indigenous] ... peoples to establish their own educational institutions and facilities'. However, while responses to the educational needs of minorities which reflect distinctions between cultural identities may lead to separate education systems, intercultural education has a contrary and complementary effect and produces a system which fosters inter-group relations. For there to be the encouragement of mutual understanding, tolerance and friendship between nations, religions and races, there has to be an exchange between groups.

The importance of intercultural education is clearly stated in the United Nations Declaration on Minorities: 'States should, where appropriate, take measures in the field of education in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.'

Language has been seen as one of the most critical ways in which minorities define themselves, yet it cannot be divorced from its cultural content. Questions of language therefore overlap with those arising from the existence of different value and belief systems. Both the chapter on Language and Education (4) and that on Aspects of Religion in Secular Education (5), consider the usefulness of the distinction between the public and the private domains. Rachel Warner describes how, despite language loyalty on the part of children from minority groups, the language of school may begin to capture the domain of home. Minority groups need to be taught the national language of the State in which they live, and be taught it effectively, in order to participate fully in society. However, access to the language of power and government through education can distance minority members from their own cultures, while reinforcing the isolation and oppression of those who remain outside the dominant culture. If majority languages have prestige and status, whereas minority languages are perceived by members of the majority as inferior and low status, children may become reticent in their use. Similarly, minority communities will only feel confident in their religious identity if the values of the private domain, which are often articulated through religion, are taught in such a way that the values of all children in the society are validated. Jagdish Gundara asserts that positive secularism goes beyond the merely religious toleration of other groups but, rather, moves towards the notion of all groups belonging in society. Only if respect for cultural diversity is a common basic value is it possible to resolve the complex issues raised by cultural diversity.

In the concluding chapter (6), Sarah Graham-Brown examines the role of the curriculum. Curriculum development reflects the ideological as

well as educational priorities of the State. Literacy has enabled people to create authorized versions of their history and, especially where a particular ethnic group or élite dominates government, control over the curriculum often leads to the construction of a version of history which heightens their political and social roles at the expense of others. In addition, it is noteworthy that the dominant education system often remains Euro-centric, even in post-colonial societies, and the knowledge of the minority culture is marginalized by a majority culture which has itself been previously suppressed.

Where attempts have been made to develop multicultural education to reflect the cultural diversity of society, some have criticized a tendency to focus on the minority rather than discussing the majority's own attitudes towards other groups. This issue of the relationships between cultures is reflected in the degree to which minority representatives participate in educational policy-making and production of the curriculum. Bearing in mind the significance of heterogeneity both between groups and within groups, it cannot be assumed that membership of an oppressed minority means everyone in that group agrees on the nature of their culture and identity or how these should be reflected in the curriculum. Intercultural dialogue, if combined with education from a cultural identity perspective, allows minority members the opportunity to debate these issues without feeling that disagreements are harmful to the group's interests.

The extent to which the right to education may be exercised and enjoyed by minorities and majorities depends upon certain political, economic and social conditions which obtain in States (see Chapter 3). The issues of language, religion and curriculum discussed in Chapters 4, 5 and 6 are significantly affected by the economic resources available to States to provide universal education. MRG seeks further evidence to illustrate the degree to which structural adjustment policies, which seem in essence to detract from the obligations of States to provide education in the context of economic, social and cultural rights, have had particularly adverse effects upon minority groups. Minorities have the same right to participate in education as other citizens of the State. While it is not possible to know what would have happened had structural adjustment policies not been imposed, where they are in place, minority groups are often to be found among the most disadvantaged sectors of the population, and may be the most vulnerable to cuts in economic resources and the introduction of fees.

The normal patterns of life, including educational activities (whether formal or informal), are effectively disrupted in areas suffering armed struggles and civil strife. This is true for both minorities and majorities, but it is the breakdown of inter-group relations which may itself be one of the reasons for the violence. A peaceful environment is both conducive to education and also a product of an education which respects and promotes minority rights, and which also fosters intercultural understanding and equitable minority and majority relations ...

The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities extends the meaning of article 27. Article 4.3. provides that:

> *States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.*

This provision is unsatisfactory in that it offers study *of* the minority language and study *in* the language as alternatives, and qualifies this with reference to 'wherever possible'. However, the appropriateness of measures is something that can be argued for and must be conditioned by the overall aim expressed by article 1 of the Declaration - to promote the continued existence and flourishing of minority cultures. Article 4.5. makes specific reference to education:

> *States should, where appropriate, take measures in the field of education in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.*

This paragraph relates to measures to be taken by the State rather than the rights of members of minorities. Measures would be 'appropriate' in most cases in order to promote knowledge among society at large of the minorities in their midst. The paragraph should impact on the content of school curricula. Reciprocally, minorities should be acquainted in their education with the larger society and not lapse into ethnic fundamentalism: this also has relevance to educational curricula. 18/ The importance of the United Nations Declaration should not be underestimated. Although it is not a treaty, the Declaration expresses global minimum standards for the protection and promotion of minority rights and will affect the content and design of United Nations programmes on minorities for the foreseeable future. The Declaration goes some way towards remedying the early post-war neglect of the minorities issue ...

Some general observations

International law recognizes that education is a general human right and also a crucial part of minority rights. The commitment to the general right is expressed in a broader range of treaty law than the specific minority right. Education for minorities is dealt with more fully in instruments of 'soft law', in resolutions of the General Assembly of the United Nations and the instruments of the CSCE process. There is, therefore, scope for development of 'hard law' aspects of minority education rights, though the prospect of a general treaty on minority rights is remote. The ensemble of instruments, however, is multifaceted and many of the concerns of minorities are taken care of by one instrument or another. The minimum or fundamental principle of international law is the protection of the existence and identity of minorities and the provision of conditions for the promotion

of that identity. The details on education may be related to that basic and open-ended standard which requires constant attention on the part of States and represents a programme of action which is always unfinished. It is possible to suggest certain principles to inform the body of instruments as a whole:

1. *Minorities should participate in general programmes of resourced education to the same extent as other citizens of the State. The principles of non-discrimination and equal rights are prominent in this assessment.*

2. *Minorities have special claims which also reflect the idea of equality since they are often in a vulnerable position in relation to more powerful groups in society.*

3. *The minority rights to existence and identity presuppose an educational component.*

4. *An appropriate education regime in this context ideally implies minority education in their own language and education about their culture; it also implies reaching out to knowledge of the wider society and that the society should respect and understand the contribution of minorities to national culture. The education process should therefore be directed to human rights in their fullest sense."*

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